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Via E-mail and Hand Delivery
City Planning Commission
City of Los Angeles
200 North Spring St.
Los Angeles, 90012

Re: Los Angeles Street Civic Building/Parker Center Project; SCH
2012051030

Honorable Commissioners,

On behalf of the Los Angeles Conservancy, we provide these comments regarding the proposed Los Angeles Street Civic Building/Parker Center Project (“Parker Center Project” or “Project”). The preferred Project alternative includes demolition of the National Register-eligible Parker Center building. As set forth in our previous comments, we advocate for careful consideration of alternatives to the proposed Project that reuse the existing Parker Center building.

The City has failed to provide that careful consideration by relying on inaccurate and unsupported claims regarding the preservation-focused Alternative B4. The City also failed to provide the public with an adequate opportunity to review and comment upon Alternative B4 because it did not recirculate the environmental impact report (“EIR”) for the Project after adding this less impactful alternative. Additionally, the City has improperly segmented environmental review of the Parker Center Project from the Civic Center Master Plan.

I. The City Was Required to Recirculate the EIR to Provide the Public an Opportunity to Comment on Alternative B4.

The draft EIR studied three build alternatives (Alternatives B1, B2 and B3), and a No Project Alternative. The draft EIR found that Alternative B3 was the only alternative that met the project objectives. However, this alternative requires complete demolition of the National Register-eligible Parker Center building and, through this demolition would the Project would also significantly impact the Los Angeles Civic Center Historic District. Alternative B3 was found to have numerous significant and unavoidable

impacts: aesthetic, air quality, cultural resource, greenhouse gas emissions, land use policies promoting preservation of historic resources, and traffic.

After the City circulated the draft EIR for comment in 2013 and prepared a final EIR in 2014, the City Council brought a motion requiring analysis of a preservation alternative that was capable of meeting the size requirements set forth in the project objectives to address public concerns related to preservation of the Parker Center building. In response, the City developed Alternative B4, which includes the preservation and rehabilitation of the majority of the existing Parker Center building and also replaces the old jail building with a large new addition.

The final EIR was revised to briefly discuss the new Alternative B4 in 2016, but the revised final EIR only responds to comments received during the 2013 comment period. (Final EIR p. 3-1.) Alternative B4 would meet all of the project objectives by providing the same amount of usable space as the preferred Alternative B3. The final EIR rejected further consideration of the less impactful Alternative B4 based on a cost estimate presented without evidentiary support (see Section II) and a claim of less efficient use of space in this alternative. (Final EIR pp. 2-39 to 2-40.) The City is required to recirculate the EIR to provide the public a meaningful opportunity to comment upon Alternative B4 and the claimed bases for its rejection presented in the final EIR, but has thus far failed to do so.

CEQA requires recirculation of an EIR “when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review ...but before certification.” (CEQA Guidelines § 15088.5.) Significant new information includes a new feasible project alternative that would reduce the project’s impacts, but is not being adopted. “The revised environmental document must be subjected to the same critical evaluation that occurs in the draft stage, so that the public is not denied an opportunity to test, assess, and evaluate the data and make an informed judgment as to the validity of the conclusions to be drawn therefrom.” (*Save our Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 131, citations omitted.) Further consideration of this Project should be postponed until the EIR has been recirculated.

II. The City Lacks Evidentiary Support for Rejection of Alternative B4.

The City must adopt a statement of overriding considerations in order to approve the Parker Center Project because the proposed Project would have many significant and unavoidable impacts. The EIR identified the following significant, unavoidable impacts: aesthetic; air quality; cultural resource; greenhouse gas emissions; land use; and traffic. The aesthetic, cultural resource and land use impacts stem from Alternative B3’s wholesale demolition of the National Register-eligible Parker Center.

The City can only approve the Project with its significant and unavoidable impacts if “there is no feasible way to lessen or avoid the significant effect[s].” (CEQA Guidelines § 15043.) When an agency seeks to approve a project despite the significant impacts the project would have on the environment, the agency must adopt a statement of overriding considerations. (Pub. Res. Code § 21081.) A statement of overriding considerations must include specific finding, supported by substantial evidence, that “[t]here is no feasible way to lessen or avoid the significant effect...” (CEQA Guidelines §§ 15043, 15093(b).) Although a statement of overriding considerations is a policy statement, it must still be supported by substantial evidence. (*Woodward Park Homeowners, supra*, 150 Cal. App. 4th at 718.) A less impactful alternative can only be rejected if it is “truly infeasible.” (*City of Marina v. Board of Trustees of the California State University* (2006) 39 Cal.4th 341, 369.)

The City lacks substantial evidence to support its rejection of the Alternative B4. Alternative B4 would substantially lessen the Project’s significant adverse impacts and would meet the identified project objectives. The City claims that this alternative is economically infeasible, but lacks substantial evidence to support that claim. Since August 29, 2016, when the City first presented its Alternative B4 publicly at the Municipal Facilities Committee hearing, the Conservancy has repeatedly asked to see and review any analysis and studies that support the City’s claims, all to no avail.

A. Alternative B4 Would Substantially Lessen Significant Impacts.

The proposed Statement of Overriding Considerations gives as a basis for rejecting Alternative B4 that “significant unavoidable impacts on cultural resources would remain... that would diminish the eligibility of the Parker Center building for listing on the National Register.” (Statement of Overriding Consideration p. 28.) This claim is inadequate as a basis for rejecting Alternative B4 for several reasons.

First, the City provides no evidentiary support for the claim that an alternative that would preserve the Parker Center building and construct a new building next to it would make Parker Center ineligible for listing on the National Register. The draft EIR for the Project found that under Alternative B2, which would also preserve Parker Center and build a tower next to it, Parker Center would remain eligible for listing on the National Register under criteria 3. (DEIR p. 4.3-38.)

Additionally, CEQA does not require an alternative to eliminate significant impacts. Instead, it states that a project with significant and unavoidable impacts cannot be approved if there is a feasible alternative that would “avoid or *substantially lessen*” those effects. (Pub. Resources Code § 21002, emphasis added.) Alternative B4 would eliminate the wholesale demolition of the Parker Center. By any measure, preserving the majority of Parker Center would substantially lessen cultural resource impacts when compared to wholesale demolition. It is also likely this alternative would similarly

substantially lessen the Project's significant aesthetic impacts associated with demolition of an historic resource and land use impacts due to inconsistencies with land use policies intended to preserve the City's historic resources.

B. Alternative B4 Meets Project Objectives

It is well settled that “[i]f there are feasible alternatives or feasible mitigation measures that would accomplish *most* of the objectives of a project and substantially lessen the significant environmental effects of a project subject to CEQA, the project may not be approved without incorporating those measures.” (*Center for Biological Diversity, Inc. v. FPL Group, Inc.* (2008) 166 Cal.App.4th 1349, 1371 fn 19, citation to (Pub. Resources Code §§ 21000(g), 21002, CEQA Guidelines § 15091); see also CEQA Guidelines § 15126.6(b).) Alternatives are not required to meet all project objectives, and in reality it “is virtually a given that the alternatives to a project will not attain all of the project’s objectives.” (*Watsonville Pilots Ass’n v. City of Watsonville* (2010) 183 Cal.App.4th 1059, 1087.)

Here, Alternative B4 would meet all of the project objectives. It would relocate City staff closer to City Hall and consolidate City services in the rehabilitated Parker Center building and new addition. (Statement of Overriding Considerations p. 5, Objectives 1-2.) Alternative B4 would also comply with City’s Green Building Code and health and safety regulations for rehabilitation and new construction and it would increase the utility of the Parker Center site. (Statement of Overriding Considerations p. 5, Objectives 3-5.)

While the Statement of Overriding Considerations claims Alternative B4 would not maximize floor space efficiency, this is not a project objective. (Statement of Overriding Considerations p. 28.) Moreover, the difference in efficiency of use is minor: preferred Alternative B3 was determined to have a Building Owner and Management (BOMA) efficiency rating of 78 percent compared to Alternative B4’s BOMA efficiency rating of 70 percent. (August 25, 2016 Staff Report for Municipal Facilities Committee.) Additionally, the claim that Alternative B4 would not afford maximum connectivity between Little Tokyo and the Civic Center is unsupported. The connectivity could be achieved in the design of Alternative B4, as indicated in the City’s schematic site plan drawings submitted as part of the record.

C. The City Lacks Evidentiary Support for Claims of Economic Infeasibility.

The Statement of Overriding Considerations also rejects Alternative B4 as economically infeasible based on a claim that this alternative would increase costs \$107 million over those of the preferred Project. The City is required to support such a claim with substantial evidence, but has failed to do so. (CEQA Guidelines §§ 15043,

15093(b); *Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal. App. 4th 587, 599.) Substantial evidence includes “reasonable assumptions predicated upon facts, and expert opinion supported by facts”, not “speculation, unsubstantiated opinion or narrative [or] evidence which is clearly inaccurate or erroneous”. (Pub. Res. Code §21082.2(c).)

As pointed out in the Conservancy’s report, “Reusing Parker Center: Fiscally Responsible Stewardship”, the City has failed to provide details to back up the cost estimates it relies upon to arrive at this number. (Attachment 1: “Reusing Parker Center: Fiscally Responsible Stewardship”.) Without this information, the City’s cost estimates amount to nothing more than unsubstantiated opinion, which is inadequate to support the Statement of Overriding Considerations.

The Conservancy convened a panel of preservation experts, including highly experienced developers, architects, a cost estimator and seismic engineer, to review the costs estimates claimed in the Statement of Overriding Considerations. (Attachment 1.) These experts found the City’s cost estimates include several clear inaccuracies that resulted in an overestimation of costs for Alternative B4. The City relied on inflated restoration costs, when the alternative is instead intended to rehabilitate Parker Center. Rehabilitation is significantly less expensive than restoration. The Conservancy’s expert cost estimate found that when a rehabilitation approach is employed, Alternative B4 could result in a *cost savings* of nearly \$50 million, making it more economical than the preferred Project.

In addition to relying on inaccurate and inflated costs for Alternative B4, it also appears the City underestimates the costs associated with the preferred Project. It appears that only construction costs were considered for the preferred Project. The economic feasibility analysis must take into consideration the project as a whole. (*Uphold Our Heritage v. Town of Woodside* (2007) 147 Cal. App. 4th 587, 599.) This means that not only the construction costs should be included in the comparative analysis, but also the demolition costs associated with the preferred Project, which would be avoided with Alternative B4. Demolition of Parker Center is planned to take place on a floor-by-floor basis, starting at the top floor of the building. This process is estimated to take eight to ten months. (Statement of Overriding Considerations p. 5.) Thus, the costs of demolition would be significant. Without an estimate of demolition costs, supported by substantial evidence, the City cannot provide the cost comparison required to make a finding of economic infeasibility.

III. The Parker Center Project is Improperly Segmented from the Civic Center Master Plan.

The City has begun developing the Civic Center Land Use Master Plan to assess redevelopment opportunities and develop municipal facilities in the Civic Center area. The Parker Center Project is intrinsically linked to and an integral part of this plan for the

entire Civic Center area, and thus is being improperly segmented from the review of the Civic Center Land Use Master Plan. By segmenting review of the Parker Center Project from the remainder of the Civic Center Land Use Master Plan, the City fails to consider the whole of the action, as required by CEQA. (CEQA Guidelines § 15378(a).)

The purpose of the Civic Center Land Use Master Plan is to provide a holistic vision for the future of the Civic Center area and identify opportunities for the reuse of City owned property in this area for both municipal and commercial uses. (CAO January 6, 2017 Report on Master Plan of Development for Civic Center, p. 2.) This plan is also intended to consolidate municipal functions, promote connectivity between properties and provide open space in the Civic Center. (*Ibid.*) “One way to evaluate which acts are part of a project is to examine how closely related the acts are to the overall objective of the project...[and whether] the proposed physical act is among the various steps which taken together obtain an objective.” (*Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1226.) Here, the project objectives for the Parker Center Project and the Master Plan are interrelated. Moreover, the Parker Center Project is intended to be one of the phases required to achieve the objectives of the Civic Center Land Use Master Plan. The Parker Center Project and the Civic Center Land Use Master Plan are also related in “(1) time, (2) physical location and (3) the entity undertaking the action” further demonstrating they are part of the same project. (*Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal.App.4th 1214, 1226.)

The Parker Center Project is part of the whole of the Civic Center Land Use Master Plan action and should not be segmented from the environmental review for that project. To comply with CEQA, the City must prepare an environmental review document that analyzes the whole of the action prior to consideration and approval of the Parker Center Project. The Civic Center Master Plan must analyze how preservation alternatives, such as Alternative B4, could be designed to fit into the plan area instead of prematurely assuming Parker Center will be demolished.

IV. Land Use Authority is Delegated to City Planning Commission, Not the City Administrative Office.

In a January 6, 2017 memorandum from the City Administrative Office (“CAO”) to the City Council, the CAO appears to be asserting authority over approval of the Civic Center Land Use Master Plan. This delegation of authority of a land use approval is not allowed under the City Charter.

The duties and powers of the CAO enumerated in the City Charter include financial planning and reporting, debt issuance and administration, assistance in preparing and reviewing the annual budget and other duties related to administrative of the budget. (City Charter §§ 20.8, 291.) The Charter does not assign power over land use

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and planning approvals to the CAO. Those powers and duties are instead assigned to the City Planning Commission. (City Charter § 551.) Thus, it would be improper to provide the CAO with the authority over the approval of the Civic Center Land Use Master Plan.

Conclusion

The Conservancy strongly urges the City to revise and recirculate its analysis of Alternative B4, providing the public adequate information and opportunity to comment upon this less impactful alternative. Moreover, the City should not segment its approval of any alternative for the Parker Center Project from the remainder of the Civic Center Land Use Master Plan.

Thank you for your time and consideration in this matter.

Sincerely,



Amy Minter

Attachment